

**UTAH
CONSTRUCTION SERVICES COMMISSION
MEETING MINUTES**

September 26, 2007

**Room 474 - 4th Floor - 09:00 A.M.
Heber Wells Building
160 East 300 South
Salt Lake City, Utah**

CONVENED: 09:00 AM

ADJOURNED: 11:45 PM

DOPL STAFF

F. David Stanley, *Director*
Clyde Ormond, *Bureau Manager (Bureau 6)*
Wayne Holman, *Investigations Supervisor*
Yvonne King, *Commission Secretary*
Lenore Epstein, *Attorney General's Office*
Ray Walker, *Reg/Comp Officer*

MEMBERS PRESENT

Bradley Stevens, *Chairman & Electrical Board Chairman*
Wendy Gibbs
John Wilcox
Joel (Marty) Jolley
Steve Bowers
Larry Love, *Burglar Alarm Board Chairman*
Ross Ford

EXCUSED

Dennis Meservy, *Bureau Manager*
Carl Tippetts, *Commission Member*
David Told, *Commission Member & Plumbers Board Chairman*

VISITORS

Baldo Diaz
Brandt Goble
William Hayden
Rob Mosou
Waylund Pauler
Moises Ruiz
J Valdez

MINUTES

Joel Jolley made a motion to approve the August 2007 commission meeting minutes. Larry Love seconded the motion and all members voted in favor.

CONTRACTOR PAY PRACTICES

Brad Stevens stated both he and David Stanley had recently been before the state legislative Business and Labor Committee. The commission for this legislative committee was to come up with recommendations on how to curtail pay practice abuses in the construction industry. Brandt Goble had pay practice concerns and had been asked to discuss them with the commission. According to Goble, there are contractors that will misrepresent an employee as an independent contractor and pay them on a 1099. Those paid on a 1099 are responsible for paying their own taxes and providing their own insurances. Often those paid on a 1099 or cash have no insurance. This pay practice, for the construction trades, is illegal for both the contractor and the employee. A contractor in Utah is required to deduct federal and state taxes from their employees pay and cover their employees with workers compensation and unemployment insurance. Contractor who pays their employees on a 1099 or cash can reduce their costs by some thirty percent. This places the legal contractor at a real disadvantage.

According to Wayne Holman, the problem he often faces in investigating this type of complaint is the complainant will refuse to provide the name of an employer or a worksite. The construction industry has a responsibility to report violators. Ray Walker is an administrative hearing officer and those that appear before him received a citation and requested a hearing. Walker mentioned this type of violation is being dealt with by the Division and accounted for some ninety percent of the cases that came before him. Goble said he knew state personnel were limited in number. He, however, would like to see more Division investigators on jobsites and more enforcement and cooperation from the various state agencies, such as the State Tax Commission, Workforce Services and the Worker's Compensation Fund. According to Stevens, the commission in their October meeting was to come up with recommendations for the legislative committee. Representatives from various state agencies needed to be present at this meeting. Goble would be providing Stevens a list of the agencies and individuals he had spoken to and their phone numbers.

LIEN LAWS

Steve Bowers asked for an interpretation of the state lien laws. Before 2004 the contractor had 90 days after completion of the work on a project to file a lien. However, after 2004 the law was changed to 90 days after substantial completion of the work.

Bowers said this change in the law has had a profound impact on the contractor and he wanted to know if his understanding of the law was correct. After substantial completion, there can be change orders and considerable work done on a project that would leave a contractor outside the timeframe and unable to file a lien. Ross Ford said it was his understanding the change in the law was supplier driven and the suppliers of building materials provided a similar argument to the legislature. Stanley suggested, as a first step in addressing the issue, Tony Patterson of the Attorney Generals Office should be asked to explain the lien laws to the commission.

ADMINISTRATIVE RULES

In regards to the proposed administrative rule changes, the commission reviewed letters received during the public comment period, but after the commission met in August. The letters were from Dan Rice and the Utah Home Builders Association. Rice had an issue with the new S202 Solar Photovoltaic Contractor license classification and the Home Builders Association did not support increasing the work experience for the S220 Carpentry Contractor license classification from two to four years. The issues involving these letters were discussed by the commission during their August 29th meeting and the letters did not change the substance of their earlier decision to move the proposed administrative rules forward. The commission in the August meeting rejected the proposed changes to the S214 license classification. The current language for the S214 Water Conditioning Equipment Contractor license classification was to remain unchanged.

Two letters were received from the Home Builders Association on August 30, 2007. The first was dated May 29, 2007 and the second letter was dated August 30, 2007. Ross Ford stated he didn't know why the Division didn't receive the first letter; it was mailed clear back in May. The Home Builders as an association did not support the increase in the work experience requirement for the S220 license classification. Adding two more years to the requirement was excessive. The S220 were framers and there was an issue with their work, however, this was not the way to address the problem. Jolley made a proposal to move the administrative rules forward and later address the issues involving the S220 license classification. Love seconded the motion. The motion passed. Five members of the commission voted in favor of the motion and Ford and John Wilcox voted against it.

CONTINUING EDUCATION

Stevens presented proposed changes to the administrative rules for continuing education. The first paragraph was clarified by using the wording "prior to the class being taught." Love made a motion to approve the new draft with the amended change. Wilcox seconded the motion and all voted in favor.

DISCIPLINARY REVIEW

Huls Italian Plasters and Drywall LLC

Clyde Ormond presented an order to dismiss, without prejudice, agency action against Huls Italian Plasters and Drywall, LLC (DOPL-2007-159). Huls contractor's license had expired and documentation that explained the brief laps in liability insurance coverage was provided. Wilcox made a motion to approve the order of dismissal. Ford seconded the motion and all voted in favor.

INVESTIGATIONS

Holman submitted a report on criminal misdemeanor filings, criminal felony filings, administrative filings, citation fines, administrative fines, cases received, cases assigned, cases closed, citations issued, site surveys, building inspectors contacts, MHRV inspections, owner/builder permits received, owner/builder investigations and letters of warning. This report gave a comparison for the years 2003 to September of 2007.

All business concluded meeting adjourned.

Note: This report is not intended to be a verbatim transcript, but is intended to record the significant features of what was discussed in the meeting. Discussed items are not necessarily arranged in chronological order.

(ss) Bradley Stevens
Bradley Stevens, Commission Chairman

Date: October 31, 2007

(ss) Dennis Meservy
Dennis Meservy, Bureau Manager

Date: October 31, 2007